

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Geoffrey Mostoller,	:	CASE NO. 2:06 CV 668
	:	
Plaintiff,	:	JUDGE MARBLEY
	:	
v.	:	
	:	
General Electric, Co.,	:	
	:	
Defendant.	:	

**PLAINTIFF’S RESPONSE TO DEFENDANT’S MOTION TO COMPEL
ARBITRATION**

Plaintiff does not dispute the existence of Defendant’s RESOLVE program and the accompanying program document. The RESOLVE program for the Plaintiff, however, is non-binding – meaning that it is probable that, even after going through the program, Plaintiff brings his claim before this Court. Defendant’s RESOLVE program fails to provide any tolling of the statute of limitations for those forced to navigate through to non-binding arbitration. Plaintiff’s obvious concern is that his statutes of limitations on his respective claims expire during the non-binding process. While Defendant is willing to assert “[b]ecause there will be nothing left for this Court to act upon once all of Plaintiff’s claims are submitted to the RESOLVE program, the Court should dismiss Plaintiff’s claim in the its entirety,” the reality is this most likely will not be the case absent settlement between the parties. See Defendant’s Motion to Compel at 6.

Plaintiff is amenable to submitting his claims through the RESOLVE program, but requires the fairness of knowing that if Defendant’s imposed process fails to provide what he deems sufficient that he may continue his claims in court. If Defendant is to

assert that Plaintiff has agreed to non-binding arbitration, then Defendant must assure Plaintiff that the “non-binding” designation is not illusory by having his claims expire during the arbitration process.

Plaintiff respectfully requests of this Court not to enter a dismissal, but to stay this matter until the parties have exhausted the Defendant’s resolution process.

Respectfully Submitted,

/s/ Nicholas E. Kennedy
Nicholas E. Kennedy (0070310)
KENNEDY REEVE & KNOLL
98 Hamilton Park
Columbus, Ohio 43203
614-228-2050 (voice)
614-228-3320 (facsimile)

Trial Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Plaintiff’s Response to Defendant’s Motion to Compel Arbitration was served upon Ellen J. Garling of Baker & Hostetler at 65 East State Street, Suite 2100, Columbus, Ohio 43215, by the Court’s electronic filing, on this the 24th day of October, 2006.

/s/ Nicholas E. Kennedy
Nicholas E. Kennedy (0070310)
Trial Counsel for Plaintiff